

**(b) FCC rulemaking**

The Federal Communications Commission, in consultation with the Federal Trade Commission, shall promulgate rules within 270 days to protect consumers from unwanted mobile service commercial messages. The Federal Communications Commission, in promulgating the rules, shall, to the extent consistent with subsection (c)—

(1) provide subscribers to commercial mobile services the ability to avoid receiving mobile service commercial messages unless the subscriber has provided express prior authorization to the sender, except as provided in paragraph (3);

(2) allow recipients of mobile service commercial messages to indicate electronically a desire not to receive future mobile service commercial messages from the sender;

(3) take into consideration, in determining whether to subject providers of commercial mobile services to paragraph (1), the relationship that exists between providers of such services and their subscribers, but if the Commission determines that such providers should not be subject to paragraph (1), the rules shall require such providers, in addition to complying with the other provisions of this chapter, to allow subscribers to indicate a desire not to receive future mobile service commercial messages from the provider—

(A) at the time of subscribing to such service; and

(B) in any billing mechanism; and

(4) determine how a sender of mobile service commercial messages may comply with the provisions of this chapter, considering the unique technical aspects, including the functional and character limitations, of devices that receive such messages.

**(c) Other factors considered**

The Federal Communications Commission shall consider the ability of a sender of a commercial electronic mail message to reasonably determine that the message is a mobile service commercial message.

**(d) Mobile service commercial message defined**

In this section, the term “mobile service commercial message” means a commercial electronic mail message that is transmitted directly to a wireless device that is utilized by a subscriber of commercial mobile service (as such term is defined in section 332(d) of title 47) in connection with such service.

(Pub. L. 108–187, §14, Dec. 16, 2003, 117 Stat. 2718.)

## REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(3), (4), was in the original “this Act”, meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

**§ 7713. Separability**

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected.

(Pub. L. 108–187, §15, Dec. 16, 2003, 117 Stat. 2718.)

## REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 108–187, Dec. 16, 2003, 117 Stat. 2699, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 7701 of this title and Tables.

**CHAPTER 104—SPORTS AGENT RESPONSIBILITY AND TRUST**

Sec.	
7801.	Definitions.
7802.	Regulation of unfair and deceptive acts and practices in connection with the contact between an athlete agent and a student athlete.
7803.	Enforcement.
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**§ 7801. Definitions**

As used in this chapter, the following definitions apply:

**(1) Agency contract**

The term “agency contract” means an oral or written agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports contract or an endorsement contract.

**(2) Athlete agent**

The term “athlete agent” means an individual who enters into an agency contract with a student athlete, or directly or indirectly recruits or solicits a student athlete to enter into an agency contract, and does not include a spouse, parent, sibling, grandparent, or guardian of such student athlete, any legal counsel for purposes other than that of representative agency, or an individual acting solely on behalf of a professional sports team or professional sports organization.

**(3) Athletic director**

The term “athletic director” means an individual responsible for administering the athletic program of an educational institution or, in the case that such program is administered separately, the athletic program for male students or the athletic program for female students, as appropriate.

**(4) Commission**

The term “Commission” means the Federal Trade Commission.

**(5) Endorsement contract**

The term “endorsement contract” means an agreement under which a student athlete is employed or receives consideration for the use by the other party of that individual’s person, name, image, or likeness in the promotion of any product, service, or event.

**(6) Intercollegiate sport**

The term “intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national